



FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35664]

V and S Railway, LLC—Acquisition and Operation Exemption—Colorado Department of Transportation

AGENCY: Surface Transportation Board.

ACTION: Notice of exemption.

SUMMARY: The Board is granting an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10902 and 49 CFR 1150.1 et seq., for V and S Railway, LLC (V&S), a Class III rail carrier, to acquire approximately 121.9 miles of rail line between milepost 747.5, near Towner, and milepost 869.4, near NA Junction in Pueblo, Crowley, and Kiowa Counties, Colo. (the Towner Line). V&S filed its petition for exemption because, in an earlier Board proceeding, it received Board authority only to operate over the Towner Line by assignment of the lease of the previous operator.<sup>1</sup> However, V&S had actually purchased the Towner Line from the owner, the Colorado Department of Transportation (CDOT), which V&S has operated since December 29, 2005.

V&S also requests that the Board grant retroactive approval of its acquisition. V&S states that in the near future it expects to file a verified notice of exemption to abandon the western segment of the Towner Line, on which there has been no traffic for

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<sup>1</sup> V & S Ry.—Acquis. and Operation Exemption—Colo., Kan. & Pac. Ry., FD 34779 (STB served Dec. 30, 2005).

more than two years' time and asks that December 29, 2005, be the effective date of its acquisition. The Board denies the request of V&S for retroactive approval of its acquisition, but will allow V&S to file a notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon the western segment of the Towner Line by waiving the requirement that it have had ownership of that portion of the line for at least two years before making the certification required at 49 CFR 1152.50(b).

DATES: This exemption will be effective December 13, 2012. Petitions to stay must be filed by November 28, 2012. Petitions to reopen must be filed by December 10, 2012.

ADDRESSES: Send an original and 10 copies of all pleadings referring to Docket No. FD 35664, to: Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, send one copy of pleadings to Fritz Kahn, Fritz Kahn, P.C., 1919 M Street, NW, 7th Floor, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Jonathon Binet, (202) 245-0368.

Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at (800) 877-8339.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision served November 13, 2012, which is available on our website at "WWW.STB.DOT.GOV."

Decided: November 13, 2012.

By the Board, Chairman Elliott, Vice Chairman Mulvey, and Commissioner Begeman.

Derrick A. Gardner

Clearance Clerk

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